

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

Civil Action No. 5:11-CV-00353-H

MUHAMMED BAZZI,

Plaintiff,

v.

**PA NDERRY M'BAI, FREEDOM
NEWSPAPER, INC., and JOHN DOE**

Defendants.

**DEFENDANT PA NDERRY M'BAI'S
MOTION TO COMPEL DISCOVERY**

Defendant Pa Nderry M'Bai ("M'Bai"), hereby moves the Court pursuant to Fed. R. Civ.

P. 37 for an Order:

- (1) Compelling Plaintiff Muhammad Bazzi ("Bazzi"), to respond truthfully, fully, and completely to M'Bai's First Set of Interrogatories and First Request for Production of Documents ("Discovery Requests"), including producing all responsive documents to M'Bai's counsel in Raleigh, North Carolina, within seven (7) days from the date of the Order;
- (2) Precluding Bazzi from interposing any objection to the Discovery Requests;
- (3) Directing that, if Bazzi fails to respond to the Discovery Requests when and as provided in the Order, his claims may be dismissed with prejudice; and
- (4) Requiring Bazzi to pay the reasonable expenses, including attorney's fees, associated with this motion.

The grounds for this motion are as follows:

1. On June 29, 2011, Bazzi commenced this action, alleging that M'Bai and co-defendant Freedom Newspaper, Inc. had defamed him. [DE-1]

2. On January 10, 2013, the Court entered its Scheduling Order [DE-16], setting October 8, 2013 as the discovery cut-off date. [DE-16 at 1] In doing so, the Court cautioned counsel not to be dilatory in pursuing discovery. [DE-16 at 2]

3. On March 25, 2013, M'Bai served the Discovery Requests, attached as Exhibit A, responses to which were due on April 24, 2013.

4. On April 11, 2013, Bazzi moved for an extension of time, through May 24, 2013, to respond to the Discovery Requests. [DE-25] The Court entered an order granting Bazzi's motion, over M'Bai's opposition, on April 19, 2013. [DE- 27] Bazzi's responses and objections were due no later than May 24, 2013.

5. Bazzi has ignored the Court's April 19 Order. He has neither responded to nor objected to the Discovery Requests.

6. On May 30, 2013, M'Bai's counsel wrote to Bazzi's counsel asking that Bazzi comply with the Court's April 19 Order by May 31, 2013. A copy of that correspondence is attached as Exhibit B. Bazzi's counsel has ignored that request and has remained silent.

7. Bazzi's refusal to provide discovery is willful and without substantial justification.

8. The undersigned counsel certifies, pursuant to Fed. R. Civ. P. 37(d)(1)(B), that he has in good faith attempted to confer with Bazzi's counsel in an effort to obtain responses to the Discovery Requests without the intervention of this Court. *See* Exhibit B.

WHEREFORE, M'Bai asks that the Court enter an Order:

1. Compelling Bazzi to respond truthfully, fully, and completely to the Discovery Requests, including producing all responsive documents to M'Bai's counsel in Raleigh, North Carolina, within seven (7) days from the date of the Order;

2. Precluding Bazzi from interposing any objection to the Discovery Requests;
3. Directing that, if Bazzi fails to respond to the Discovery Requests when and as provided in the Order, this action may be dismissed with prejudice;
4. Awarding M'Bai reasonable attorney's fees and costs associated with this motion;

and

5. Granting such other relief as may be appropriate under the circumstances.

Dated this 6th day of June 2013.

HUNTON & WILLIAMS LLP

/s/ Douglas W. Kenyon
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*Counsel for Defendants Pa Nderry M'Bai and
Freedom Newspaper, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of **DEFENDANT PA NDERRY M'BAI'S MOTION TO COMPEL DISCOVERY** has been served today via electronic mail sent to the person at the address below:

Edward H. Maginnis
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This the 6th of June 2013.

/s/ Douglas W. Kenyon
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